

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

| | | |
|--------------------------|---|---------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | CR. NO. 2:08CR3-WKW |
| |) | |
| JAMAAR TAYLOR |) | |

RESPONSE TO MOTION TO SUPPRESS

Comes now the United States of America, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and in response to the Motion to Suppress filed by the defendant herein, the following is submitted:

1. On July 29, 2007, the Ft. Deposit Police Department set up a DUI/Safety Checkpoint during which the defendant's car was stopped. The defendant was asked for his driver's license and proof of insurance. When the defendant turned on his inside cargo lights while looking for his proof of insurance, Officer McKinnon noticed defendant's eyes were very red. When Officer McKinnon approached the vehicle, he noticed the smell of marijuana. The officer asked both the defendant and his passenger, Joshua Simmons, if they had been drinking alcohol or smoking marijuana in the vehicle and the defendant stated they had not been smoking in the vehicle. Officer McKinnon then asked if someone had been smoking marijuana in the vehicle and both the defendant and Simmons said, "Not that I know of." Officer McKinnon then asked if any weapons were in the car and both occupants responded, "No." Officer Joshua Williams asked the passenger to step out of the vehicle and as Simmons exited the vehicle, a pistol fell and hit the road. Simmons then was placed in handcuffs. The defendant was then asked to exit and he was asked did he have any weapons. The defendant said he had a pistol on his right side. Officer McKinnon lifted the defendant's shirt and

removed a loaded Glock, Model 19, 9 x 19 semi-automatic pistol. Officer McKinnon then noticed a plastic bag hanging out of the defendant's pants pocket. The plastic bag contained what appeared to be marijuana.

2. The defendant has cited City of Indianapolis v. Edmond, 121 S.Ct. 447 (2000), in support of his Motion to Suppress. A limited exception exists which permits sobriety or driver's licenses checkpoints where officers are focused on the problem of road safety. Such is the case here.

3. In U.S. v. Davis, 288 F.3d 1263 (11th Cir. 2002), the Eleventh Circuit upheld the district court's decision denying a motion to suppress evidence seized from a vehicle following a road block. The road block was initiated and designed to aid an intergovernmental drug enforcement task force in the execution of a comprehensive operations plan to arrest six other individuals.

4. The checkpoint here was permissible as a sobriety or driver's license checkpoint.

Wherefore, premises considered, this Defendant's Motion to Suppress is due to be denied.

Respectfully submitted this the 21st day of March, 2008.

LEURA G. CANARY
UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Aylia McKee, Esq.

Respectfully submitted,

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